

**REMARKS**

Applicants thank the Examiner for the thorough consideration given the present application. Claims 1-17 are pending in the present application. Claims 1-16 have been amended. Claim 17 is new. Claims 1, 2, 5, 6, 9, 10, 13, 14, and 17 are independent claims.

The Examiner is respectfully requested to reconsider the outstanding rejections in view of the above amendments and the following remarks.

***Allowable Subject Matter***

It is gratefully acknowledged that the Examiner considers the subject matter of claims 1-16 as being allowable if amended to overcome the rejections under 35 U.S.C. § 112.

***Rejection Under § 112, First Paragraph***

Claims 1-8 stand rejected under 35 U.S.C. § 112, first paragraph, because the claims are allegedly single means claims. Applicants respectfully disagree with this rejection, noting that the claims do not recite any “means” language. Furthermore, according to the above amendments, independent claims 1, 2, 5, and 6 have been amended now recite a combination of elements.

Since claims 1-8 are not directed to single means claims, reconsideration and withdrawal of this rejection is respectfully requested.

***Rejection Under § 112, Second Paragraph***

Claims 1, 2, 5, 6, and 9-16 stand rejected under 35 U.S.C. § 112, second paragraphs, because they are allegedly indefinite.

As to claims 1, 2, 5, 6, 9, 10, 13, and 14, the Examiner asserts that certain claimed elements as not having sufficient antecedent basis. In view of the above amendments, Applicants

respectfully submit that the claims now contain sufficient antecedent basis for each claimed element.

As to claims 9-16, the Examiner asserts that these claims are directed to a method without reciting any method steps. In view of the above amendments, these claims now recite method steps.

With respect to claims 1-8, the Examiner rejected these claims because they are replete with indefinite and functional or operational language, and that the structure making up the device must be specified. Applicants respectfully submit that, as amended, these claims do not contain indefinite language, and that they recite structural elements such as a setting unit, assigning unit, and receiving unit. Furthermore, Applicants point out MPEP § 2173.05(g), which states, "Functional language does not, in and of itself, render a claim improper" (citing *In re Swinehart*, 169 USPQ 226 (CCPA 1971)). Under § 112, 2<sup>nd</sup> paragraph, the test for claim language is whether it is definite enough to provide a clear-cut indication of the scope of claimed subject matter, not whether it is functional or not (see *Swinehart* at 229). Applicants respectfully submit that claims 1-8 meet this test.

In view of the aforementioned, Applicants respectfully request reconsideration and withdrawal of these rejections.

### ***Rejection Under § 101***

Claims 9-16 stand rejected under 35 U.S.C. § 101 as not being directed to a proper method, because they do not recite method steps. As mentioned above, these claims have been amended to recite method steps. Thus, this rejection has been rendered moot, and reconsideration and withdrawal of this rejection is respectfully requested.

***New Claim***

It is respectfully submitted that new claim 17 recites a combination of elements that are neither taught nor suggested by the references on record in this application. Thus, Applicants submit that claim 17 is in condition for allowance.

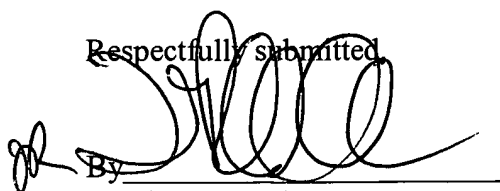
***Conclusion***

In view of the above amendments and remarks, the Examiner is respectfully requested to reconsider the outstanding rejections and issue a Notice of Allowance in the present application.

However, should the Examiner believe that any outstanding matters remain in the present application, the Examiner is respectfully requested to contact Jason W. Rhodes (Reg. No. 47,305) at the telephone number of the undersigned to discuss the present application in an effort to expedite prosecution.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Date: September 11, 2006

Respectfully submitted,  


By \_\_\_\_\_  
D. Richard Anderson  
Registration No.: 40,439  
BIRCH, STEWART, KOLASCH & BIRCH, LLP  
8110 Gatehouse Road  
Suite 100 East  
P.O. Box 747  
Falls Church, Virginia 22040-0747  
(703) 205-8000  
Attorney for Applicant